



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

DRAFT

Date:	01/12/12	Bill No:	AB 1506
Tax Program:	Fire Prevention Fee	Author:	Jeffries
Sponsor:	Author	Code Sections:	Chap. 1.5 to Part 2 of Div. 4 of the PRC
Related Bills:	ABx1 45 (Jeffries)	Effective Date:	01/01/13

BILL SUMMARY

This bill would repeal the provisions related to the State Responsibility Area (SRA) Fire Prevention Fee.

ANALYSIS

CURRENT LAW

Under existing law, Public Resources Code (PRC) Section 4125 requires the State Board of Forestry and Fire Protection (Fire Board) to classify all lands within the state for the purpose of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state, without regard to any classification of those lands made by or for any federal agency or purpose.

PRC Section 4102 defines "state responsibility areas" to mean areas of the state in which the financial responsibility for preventing and suppressing fires has been determined by the Fire Board to be primarily the responsibility of the state.

Under existing PRC provisions, the Department of Forestry and Fire Protection (CAL FIRE) has the primary responsibility for preventing and suppressing fires in areas that the Fire Board has determined are SRA's.

Fire Prevention Fee. Assembly Bill (AB) x1 29 (Ch. 8, Stats. 2011) added Chapter 1.5 (commencing with Section 4210) to Part 2 of Division 4 of the Public Resources Code to, among other things, require the Fire Board on or before September 1, 2011, to adopt emergency regulations to establish a fire prevention fee in an amount not to exceed \$150 on each structure on a parcel that is within a SRA.

On January 11, 2012, the Fire Board adopted regulations related to the fire prevention fee, including the amount of the fire fee. The emergency regulations were approved by the Office of Administrative Law on January 23, 2012. As provided by those regulations, the fire fee is \$150 per habitable structure, with a fee exemption of \$35 per habitable structure that is within both a SRA and the boundaries of a local agency that provides fire protection services.

The fire prevention fee is to be adjusted annually by the Fire Board, beginning July 1, 2013, to reflect the percentage of change in the average annual value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as described.

Collection and Administration. The BOE is required to annually assess and collect the fire prevention fee in accordance with the Fee Collection Procedures Law (Part 30

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(commencing with Section 55001) of Division 2 of the Revenue and Taxation Code), based on feepayer data and fee amounts provided by CAL FIRE.

The Fee Collection Procedures Law contains generic administrative provisions for the administration and collection of fee programs to be administered by the BOE. It was added to the Revenue and Taxation Code to allow bills establishing a new fee to reference this law, thereby only requiring a minimal number of sections within the bill to provide the necessary administrative provisions. Although the Fee Collection Procedures Law contains various administrative processes, such as collection, reporting, refund, and appeals provisions, as well as providing the BOE the authority to adopt regulations relating to the administration and enforcement of the Fee Collection Procedures Law, ABx1 29 only authorized the BOE to assess and collect the fee and to make adjustments to fee assessments as determined by CAL FIRE or their designated fee administrator.

Beginning with the 2012-13 fiscal year, if in any given fiscal year there are sufficient funds in the State Responsibility Area Fire Prevention Fund to finance specified costs related to fire prevention activities for that fiscal year, then the fire prevention fee may not be collected for that fiscal year.

SRA Fire Prevention Fund (Fund). After deducting moneys necessary for the payment of refunds and reimbursement for expenses incurred in the collection of the fee, the BOE is required to deposit the fire protection fees collected into the Fund. Moneys in the Fund will be available to CAL FIRE for fire prevention activities in SRA's, as specified, that benefit the owners of structures within the SRA.

The law also requires that the fee revenues be used to cover any startup costs incurred over a two-year period.

Definitions. The term "structures" means "a building used or intended to be used for human habitation." A building includes, but is not limited to, a mobile home or manufactured home. The Fire Board is required to exclude from this definition building types that require no structural fire protection services beyond those provided to otherwise unimproved lands.

PROPOSED LAW

This bill repeals Chapter 1.5 (commencing with Section 4210) of Part 2 of Division 4 of the Public Resources Code, related to the fire prevention fee.

The bill would become effective on January 1, 2013.

BACKGROUND

On July 7, 2011, the Governor signed AB x1 29 (Ch. 8, Stats. 2011). This bill was effective immediately and required a new fee to be collected annually by the BOE commencing with the 2011-12 fiscal year. However, as the BOE did not receive an appropriation, implementation was delayed.

The Governor provided a signing message with ABx1 29, which reads, in part, "A fee consistent with the 'beneficiary pays principle,' such as the one intended in this bill, can achieve significant General Fund savings. However, as currently drafted, the revenues may not materialize. I am directing the Department of Finance and CAL FIRE to work with the Legislature during the remaining legislative session to identify necessary clean-up language to realize these revenues."

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ABx1 24 (Blumenfield), amended September 1, 2011, was the Governor's bill intended to impose a fire protection fee to fund fire suppression and prevention services and emergency response efforts in SRAs. It was held in the Senate Budget & Fiscal Review Committee.

ABx1 45 (Jeffries), introduced September 2, 2011, would have repealed the SRA fire prevention fee enacted by the Legislature on July 7, 2011. The bill died at the Assembly desk.

On December 15, 2011 the BOE approved an Inter-Agency Agreement with the Fire Board to administer the SRA fire prevention fee; the contract is effective until June 30, 2012. According to the Governor's 2012-13 proposed budget, the BOE will expect to have its administrative costs covered by the revenues from the SRA fire fee.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the author and is intended to ensure that those persons subject to the SRA fire prevention fee are not taxed a second time for services for which they are already paying through local property taxes or special district taxes.
2. **The BOE may have costs related to the repeal of the program.** The BOE is responsible for the issuance of the assessments, collection of the fire prevention fee, and processing adjustments to the fee assessment as determined by CAL FIRE that may result in a refund. Depending on the timing and the number of assessments issued, the BOE may have costs related to the unwinding of the fee program and refunding any fees collected.

COST ESTIMATE

The BOE may need to process refunds in the event of the repeal of the SRA fire prevention fee. Costs would be dependent on the number of assessments and fees collected prior to the repeal, which would in turn be affected by the date the BOE begins issuing the assessments. The Fire Board adopted regulations related to the SRA fire prevention fee, including the amount of the fire fee. The emergency regulations were approved by the Office of Administrative Law on January 23, 2012. As this bill progresses, the BOE may be able to estimate the costs that may be incurred after the repeal of the SRA fire prevention fee.

REVENUE ESTIMATE

Repeal of the SRA fire prevention fee would result in revenues not being assessed or collected. The Governor's 2012-13 proposed budget estimates revenues for the 2011-12 fiscal year at \$50 million, and \$76.3 million for the 2012-13 fiscal year.

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